

AMENDED IN ASSEMBLY AUGUST 21, 2006

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AMENDED IN ASSEMBLY JUNE 19, 2006

SENATE BILL

No. 257

Introduced by Senator Chesbro

(Principal coauthor: Assembly Member Ridley-Thomas)

February 15, 2005

An act to amend Section 50909 of, to add Section 51050.1 to, and to add Chapter 6.3 (commencing with Section 51312) to Part 3 of Division 31 of, the Health and Safety Code, relating to housing and community development.

LEGISLATIVE COUNSEL'S DIGEST

SB 257, as amended, Chesbro. Special needs housing.

Existing law creates the California Housing Finance Fund in the State Treasury, and authorizes the transfer of construction loan funds to the construction lender or to the contractor as necessary to meet draws for progress payments pursuant to rules and regulations of the California Housing Finance Agency. Existing law prescribes the powers and duties of the agency with regard to providing loans and subsidizing housing for persons and families of low or moderate income and authorizes the agency to utilize federal subsidies available to provide housing for those families and persons.

This bill would additionally authorize the agency to make loans to finance affordable housing, including residential structures, housing developments, multifamily rental housing, special needs housing, as defined, and other forms of housing permitted by provisions

regulating housing and community development. The bill would authorize the agency, in addition to any other power conferred pursuant to specified laws governing housing and community development, to issue revenue bonds, in accordance with specified requirements, for the purpose of financing the acquisition, construction, rehabilitation, refinancing, or development of special needs housing, as defined.

Existing law requires the agency to be administered by a board of directors, and requires the board to determine the compensation for the executive director of the agency. Existing law prohibits the compensation for the executive director to exceed the salary of the Secretary of the Business, Transportation and Housing Agency.

This bill would also require the board to determine the compensation for all key exempt management, as prescribed, and would remove the limitation on the executive director's compensation as it relates to the salary of the Secretary of the Business, Transportation and Housing Agency. This bill would require the board to establish the compensation in the agency's annual budget, and would require the Department of Personnel Administration to review the board's methodology in establishing the compensation.

This bill would require the California Housing Finance Agency to present a plan to the Legislature for the development, acquisition, construction, and rehabilitation of supportive housing. The bill would require the Legislative Analyst's Office to comment on the plan.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) There is a shortage of housing and related supportive
- 4 services for persons with special needs, including persons with
- 5 mental illnesses. These persons are at substantial risk of
- 6 homelessness. Financing special needs housing is particularly
- 7 difficult because this housing will not support large amounts of
- 8 conventional long-term debt. The California Housing Finance
- 9 Agency (CalHFA) has substantial expertise and experience in
- 10 leveraging conventional financing with other secondary sources
- 11 of financing, to facilitate the development of affordable housing.

1 (b) Financing special needs housing, as well as efficiently
2 leveraging other funds available for this purpose, is complex and
3 involves significant financial risks. CalHFA has the management,
4 financial, and legal expertise to structure the transactions and to
5 manage these risks over a long term. The ability of CalHFA to
6 effectively and efficiently provide this special needs financing
7 requires amendments to the agency's statutes, including clear
8 authority for the agency to issue bonds to raise capital for
9 tax-exempt and taxable loans to finance special needs projects.

10 (c) The provision of additional financing through CalHFA
11 provides significant advantages to the state. CalHFA is
12 financially independent from the State of California. Its bond
13 obligations are not a debt or liability of the state, nor does it
14 require a pledge of the full faith and credit of the state. CalHFA
15 is a self-supporting entity, and raises all of its capital from
16 private investors through the issuance of bonds.

17 (d) CalHFA's high quality credit rating depends in significant
18 part on ratings agency and investor confidence in the ability of
19 the management of the agency. Credit ratings agencies evaluate
20 the expertise and effectiveness of CalHFA management in
21 connection with the agency's issuer credit rating. CalHFA's
22 current issuer rating specifically recognizes that CalHFA has
23 experienced significant difficulty in attracting and retaining key
24 management personnel as a result of compensation that is
25 significantly less than is offered by other comparable housing
26 finance agencies. The continued ability of the agency to meet its
27 duties to bondholders, to maintain its high credit rating, and to
28 manage the risk of complex real estate finance transactions such
29 as those contemplated in this act, depends substantially on the
30 ability of the agency to attract and retain key executive
31 management over the long term.

32 (e) CalHFA must operate as a professional, self-supporting
33 financial institution. Each fiscal year, the CalHFA Board of
34 Directors (board) of the agency enacts a business plan, including
35 an operating budget containing salaries. This act enables the
36 board to attract and retain key personnel by clarifying the board's
37 authority to establish compensation for key executive and
38 management positions. This compensation will be competitive
39 with that of other comparable state and local housing finance

1 entities, according to salary survey methodology reviewed by the
2 Department of Personnel Administration.

3 SEC. 2. Section 50909 of the Health and Safety Code is
4 amended to read:

5 50909. (a) Notwithstanding Sections 19816 and 19825 of the
6 Government Code, the compensation of key exempt
7 management, including the executive director, the chief deputy
8 director, the general counsel, the director of financing, the
9 director of homeownership programs, the director of multifamily
10 programs, the director of insurance and the financial risk
11 management director shall be established by the board in the
12 agency's annual budget, in amounts which are reasonably
13 necessary, in the discretion of the board, to attract and hold a
14 person of superior qualifications. ~~To~~

15 (b) (1) *To* determine the compensation for the positions
16 described in this section, the agency shall ~~conduct~~ *cause to be*
17 *conducted, through the use of independent outside advisors,*
18 salary surveys of both of the following:

19 ~~(1)~~

20 (A) Other state and local housing finance agencies that are
21 most comparable to CalHFA.

22 ~~(2)~~

23 (B) Other relevant labor pools.

24 (2) *The salaries so set by the board shall not exceed the*
25 *highest comparable salary for a position of that type, as*
26 *determined by the survey.*

27 ~~(b)~~

28 (c) The Department of Personnel Administration shall review
29 the methodology used in these salary surveys.

30 ~~(e)~~

31 (d) Members of the board shall not receive a salary but shall
32 be entitled to a per diem allowance of one hundred dollars (\$100)
33 for each day's attendance at a meeting of the board or a meeting
34 of a committee of the board, not to exceed three hundred dollars
35 (\$300) in any month, and reimbursement for expenses incurred in
36 the performance of their duties under this part, including travel
37 and other necessary expenses.

38 SEC. 3. Section 51050.1 is added to the Health and Safety
39 Code, to read:

1 51050.1. The agency may make loans to finance affordable
2 housing, including residential structures, housing developments,
3 multifamily rental housing, special needs housing, and other
4 forms of housing permitted by this part.

5 SEC. 4. Chapter 6.3 (commencing with Section 51312) is
6 added to Part 3 of Division 31 of the Health and Safety Code, to
7 read:

8
9 CHAPTER 6.3. SPECIAL NEEDS HOUSING
10

11 51312. (a) The primary purpose of this chapter is to provide
12 an additional method of financing special needs housing.

13 (b) (1) For purposes of this chapter, “special needs housing”
14 means any housing, including supportive housing, intended to
15 benefit, in whole or in part, persons identified as having special
16 needs relating to any of the following:

17 (A) Mental health.

18 (B) Physical disabilities.

19 (C) Developmental disabilities, including, but not limited to,
20 mental retardation, cerebral palsy, epilepsy, and autism.

21 (D) The risk of homelessness.

22 (2) Special needs housing shall also ~~include~~ *mean* housing
23 intended to meet the housing needs of persons eligible for mental
24 health services funded in whole or in part by the Mental Health
25 Services Fund, created by Section 5890 of the Welfare and
26 Institutions Code.

27 51313. The exercise of the powers granted by this chapter
28 shall be in all respects for the benefit of the people of this state
29 and for their health and welfare. Therefore, any bonds issued by
30 the agency, pursuant to this chapter, their transfer, and the
31 income therefrom shall at all times be free from taxation by the
32 state or any political subdivision or other instrumentality of the
33 state, excepting inheritance and gift taxes.

34 51314. Subject only to the limitations of this chapter, the
35 agency may, in addition to any other power conferred by this
36 part, issue revenue bonds as provided in Chapter 7 (commencing
37 with Section 51350) for the purpose of financing the acquisition,
38 construction, rehabilitation, refinancing, or development of
39 special needs housing, and for the provision of capital

1 improvements in connection with, and determined necessary to,
2 such housing.

3 51315. Subject only to the limitations prescribed in this
4 chapter, the agency, in addition to any other power conferred by
5 this part with respect to housing, may make or undertake
6 commitments to make loans to finance the acquisition,
7 construction, rehabilitation, refinancing, or development of
8 special needs housing. For this purpose, the agency may enter
9 into regulatory contracts and other agreements with the owners or
10 operators of that housing to ensure compliance with this chapter.

11 51316. Subject only to the limitations prescribed in this
12 chapter, the agency, in addition to any other power conferred by
13 this part, may purchase, or undertake, directly or indirectly
14 through lending institutions, commitments to purchase,
15 construction loans, mortgage loans, or other types of loans
16 originated in accordance with a financing agreement with the
17 agency to finance the acquisition, construction, rehabilitation,
18 refinancing, or development of special needs housing, and for the
19 provision of capital improvements in connection with, and
20 determined necessary to, such housing.

21 51317. For the purposes of this chapter, the agency shall have
22 the power to issue its bonds to defray, in whole or in part, the
23 costs of studies and surveys, insurance premiums, underwriting
24 fees, legal, accounting and marketing services incurred in
25 connection with the issuance and sale of bonds, including bond
26 and operating reserve accounts, trustee, custodian, and rating
27 agency fees, and such other costs as are reasonably related to the
28 foregoing.

29 51318. This chapter constitutes a complete, additional, and
30 alternative method to issue bonds to finance the costs of special
31 needs housing.

32 *SEC. 5. (a) The California Housing Finance Agency*
33 *(CalHFA), in consultation with the Department of Mental Health*
34 *(DMH) and the Department of Housing and Community*
35 *Development (DHCD), and other agencies and interested*
36 *parties, shall prepare and present to the Legislature a plan for*
37 *the development, acquisition, construction, and rehabilitation of*
38 *supportive housing projects using up to seventy-five million*
39 *dollars (\$75,000,000) annually in funding from the Mental*
40 *Health Services Act (MHSA), as provided under the Governor's*

1 *Executive Order S-07-06. The plan shall include, but not be*
2 *limited to, the following components:*

3 *(1) How funds will be distributed, including any criteria to*
4 *evaluate projects.*

5 *(2) How funding for the supportive housing program will be*
6 *administered and the level of administrative costs.*

7 *(3) How effective coordination among CalHFA, DMH, and*
8 *DHCD will be assured for the duration of the program.*

9 *(4) The projected timetable for obtaining additional*
10 *supportive housing units, and an explanation as to how state*
11 *agencies will regularly monitor the activities of the program on*
12 *an ongoing basis to ensure that the goal of establishing 10,000*
13 *additional supportive housing units is being met.*

14 *(5) How state agencies will regularly monitor and audit*
15 *expenditures on an ongoing basis to ensure that the funding for*
16 *the program is spent in a cost-effective manner.*

17 *(6) How state agencies will ensure that the design of any*
18 *housing developed under the program meets the needs for special*
19 *needs programs provided to its inhabitants.*

20 *(b) A copy of the plan shall be submitted to the chair of the*
21 *Joint Legislative Budget Committee, the chairs of the fiscal,*
22 *housing, and health committees of each house of the Legislature,*
23 *and the Legislative Analyst's Office.*

24 *(c) The Legislative Analyst's Office shall review and, to the*
25 *extent it determines is warranted, comment on the plan. Any*
26 *Legislative Analyst's Office comments shall be submitted to the*
27 *parties specified in subdivision (b) and shall include, but shall*
28 *not be limited to, the following aspects of the plan:*

29 *(1) Whether the plan is complete and consistent with the*
30 *requirements of this section.*

31 *(2) Whether the plan for the development of 10,000 additional*
32 *units of supportive housing is reasonable.*

33 *(d) The executive director of CalHFA is encouraged not to*
34 *make a funding commitment for any supportive housing project*
35 *proposed under the Executive Order prior to 30 days after the*
36 *submission of the plan pursuant to subdivision (b), or any lesser*
37 *time that the chair of the Joint Legislative Budget Committee*
38 *may determine.*

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